IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1966 OF 2004

Lalchand Gupta and others Petitioners

versus

Chief Executive Officer and others Respondents

Mr.Vinay Hegde i/by Pandya & Poonawala, adv. for petitioners.

Ms.Deepa Chavan i/by Little & Co; adv. for respondent no.2.

Mr.Pradeep Jadhav, AGP for respondent no.3.

Mr.D.S.Sakhalkar, adv. for respondent no.4.

Mr.H.S.Anand, adv. for intervenor society.

CORAM : H.L.GOKHALE AND
S.C.DHARMADHIKARI, JJ.

DATE : 14th February 2005

PC :

1. Heard Mr.Hegde for petitioners, Ms.Chavan for respondent no.1, Mr.Jadhav for respondents 3 and 5, Mr.Sakhalkar for respondent no.4 and Mr.Anand for intervening society of the occupants of the plots of land situated at Mulgaon, Andheri (E) on which place presently respondent no.4 is developing a scheme for Slum Rehabilitation

Authority. The petition is filed contending that there is dispute as to whether the SRA can develop this particular property inasmuch as respondent no.1 MIDC claims to be owner of this plot of land if not entirely atleast in part.

2. Petition bearing No.1422 of 2004 concerning this very parcel of land on behalf of a developer appointed by respondent no.1 MIDC was heard and decided by Division Bench of this Court on 21st December 2004. The Division Bench observed that it will be desirable that a high power committee constituted by the Chief Secretary of the State of Maharashtra decides this dispute between MIDC and SRA.. Those directions were given following the observations of Apex Court in the case of MTNL Vs. Chairman, Central Board, Direct Taxes and another reported in AIR-2004-SC-2434.

3. Inasmuch as a dispute between MIDC and SRA has already been referred to this committee, this petition, therefore, need not be separately entertained. The petitioners, however, seek protection that their hutments should not be demolished until decision of high power committee is arrived at. Mr.Sakhalkar for respondent no.4 developer states that in the mean while

respondent no.4 has proceeded with the development. Respondent no.4 has already constructed one building wherein some 110 occupants have been shifted. Second building has come up to fourth floor. That being the position, it will be open for respondent no.4 to continue with the construction of second building at it’s own risk. An occasion to shift the proposed occupants of this building no.2 will not arise until building no.2 is completed. This being so, right now, there is no need to demolish any of the hutments. Mr.Sakhalkar states that hutments are required to be demolished and those persons are required to be shifted to transit camp so that the development can go in the phasewise manner, meaning thereby that the work of third building can be started. Certainly in the present situation it is desirable that work of third building should not start and therefore no further demolitions need be taken until the report of the committee is arrived at. Any delay caused on the part of respondent no.4 in not proceeding phase-wise programme hereinafter can be answered by relying upon this order. Petition disposed of.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)